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BOOK NOTES

THE INTERNATIONAL LAW OF POLLUTION by JAMES BARROS and DOUGLAS M. JOHNSTON. New York: The Free Press. Unnumbered page notes; suggested reading list. 1974. Pp. xviii+476. \$14.95 cloth. The authors have compiled an exhaustive listing of international agreements, resolutions and convention reports dealing with pollution problems, ranging from river pollution and oil spills to biological warfare and nuclear catastrophe. The authors introduce the reader to the subject with a list of definitions of the types of pollution and their sources as well as a basic distribution of the pollutants in our environment. The book then sets out a foundation for the international agreements which follow by examining the most famous pollution and environmental cases decided by the United States Supreme Court. A selective reading list containing many recent law review and magazine articles is included with an accompanying topical index. The purpose of this book, as stated at the outset of the preface, is to be a research tool for students of international pollution control problems and the reader will be extremely disappointed if he anticipates anything more. The book lacks any analytical commentary for the many agreements. Further, it has no notes indicating whether any of the agreements were complied with or enforced. In short, it is a collection of over eighty excerpts presented in a loose conceptual order. Unless the reader desires to read these excerpts, and to analyze and differentiate them on his own, he will find the book's main value to be as an initial source in getting into further studies in the newly emerging field of international law of pollution.

SLP

EDWARD S. CORWIN'S THE CONSTITUTION AND WHAT IT MEANS TODAY by HAROLD W. CHASE and CRAIG R. DUCAT. Princeton, N. J.: Princeton Univ. Press. Page notes each section; table of cases; index; 1973 supplement. 1973. Pp. xviii+601. \$20.00 cloth/\$3.95 paper. The great flexibility of the United States Constitution has been both a key to its longevity and a cause of great frustration for those who have had to interpret it. In 1920 the first publication of Corwin's thorough explication of the Constitution in the context of his time was hailed by attorneys of the day as a reliable starting point for research into the areas of constitutional law. The current revision, the first since 1958, serves the same purpose for those who must understand the meaning of the Constitution in 1974. The organization of the book follows the organization of the Constitution beginning with the preamble and ending with a discussion of the twenty-sixth amendment and the proposed equal rights amendment. Each article and amendment is analyzed for its historical development, current interpretation, and possible growth. The development of Article II, Section 2, paragraph 2 of the Constitution is traced from its application in *Marbury v. Madison* to its significance in the context of upcoming Watergate litigation. All questions raised and contentions examined are thoroughly footnoted with full citation including cases as recent as 1973. The book includes a detailed index and a complete alphabetical list of cited cases to facilitate use in research. An updated yearly supplement which will accompany each new paperback edition can also be purchased separately. The book is a very readable, extremely well-organized, often enlightening tool, both for social scientists researching the Constitution in general and for attorneys pursuing an in-depth study of a well-defined area of constitutional law.

MB

EXAMINATION OF MEDICAL EXPERTS: VOLUME 2 DIRECT EXAMINATION, CROSS EXAMINATION, DEPOSITIONS, EVIDENCE RULES & TECHNIQUES edited by LOUIS R. FRUMER and MARILYN K. MINZER. New York: Matthew Bender. Sample transcripts; table of contents; index. 1973. Pp. xxii + 540. \$25.00 cloth. The design of this volume is to prepare the lawyer for the medical aspects involved in personal injury and medical malpractice cases. It is a compilation of twenty-four articles written by prominent trial practitioners which outline illustrative and pragmatic techniques for the handling of medical questions during direct examination, cross examination and the taking of depositions. It also sets out the evidentiary rules pertaining to expert medical testimony. Since the most crucial part of proving a personal injury or medical malpractice case is the effective examination of medical experts, the greater portion of this volume is devoted to the trial itself. The content of the articles is highly specialized and relates primarily to the techniques for direct examination and cross examination to be employed by the practitioner in a number of specific situations. For example, in the medical malpractice category, techniques are provided for such cases as wrongful death resulting from tuberculosis, administration of contraindicated drugs, maladministration of birth control pills and failure to promptly resuscitate a patient who goes into a cardiac arrest. It also contains valuable methods for demonstrating the bias of expert witnesses during cross examination. For the practitioner concerned with a particular personal injury, the work contains techniques for conducting direct or cross examinations in cases involving strains and sprains, back injuries and amputations, traumatic neurosis, traumatic epilepsy, diagnosis of retardation, and for eliciting the testimony of a cardiologist to establish a relationship between death and work activity. Although the question-answer formats for trial are formulated by the authors themselves, the authors attest to practical success in using them. In the latter part of the volume, a co-editor Marilyn K. Minzer presents a compilation of some interesting recent cases from various jurisdictions as well as law review articles involving medical evidence. This volume also contains a helpful and exhaustive index pinpointing frequent trouble areas encountered by the attorney who examines medical experts. *Examination of Medical Experts* is an excellent reference book for the highly specialized trial practitioner, but it is much too limited in scope for the general practitioner who seldom handles complex personal injury or medical malpractice cases.

DLC

FROM POOR LAW TO WELFARE STATE: A HISTORY OF SOCIAL WELFARE IN AMERICA by WALTER I. TRATTNER. New York: The Free Press. Page notes each chapter; bibliography each chapter; index. 1974. Pp. xii+276. \$9.00 cloth. This is a straightforward, but brief, history of social welfare in America from the colonial period to the present. The author provides a general perspective on the subject and, when appropriate, emphasizes the importance of the social worker. He points out the sources controlling the administration of social welfare, highlighting their historical development. Three general sources of control outline social welfare: local, state and federal. In the colonial period, charity was administered locally, by the small towns. Although the town council would officially organize the administration of aid (such as the services of a physician or the warmth of a person's home), the towns' citizens participated in the charitable efforts, motivated by moral obligations which were influenced by the English poor laws. "By the early nineteenth century, however, conditions had changed. Factory life, urbanization, greater poverty, higher taxes, and the laissez-faire philosophy had made the

pursuit and accumulation of wealth a moral virtue and dependency a vice." These changes marked a shift in the control of welfare from the local town to the state. The state, in effectuating the attitude toward dependency which resulted from these changes, established institutional care for the needy. Hospitals, sanitariums, orphanages and the like were created and operated by the individual states. The author describes this "indoor" form of relief as a punitive reaction toward the poor. Not until the Great Depression of 1929, when great numbers of persons fell victim to poverty, did this attitude toward the poor change. This change marked the beginning of the third and present source of control over welfare, the intervention of the federal government. The new policy toward the poor "place[d] human rights above property rights" and is best exemplified by the Social Security Act of 1935 and outgrowths thereof which have led to what is now termed "the welfare state." The author stresses the social worker's role as integral in the "evolving concept of man's responsibility to man and of the community and government's responsibility for the well-being of all its citizens." Although this book is intended primarily for historians and social workers, anyone, including attorneys, interested in social justice and reform will find this general perspective of the American welfare system a realistic tool. It should, however, be used solely as an introduction to the area of welfare as it is not footnoted, and its bibliography, keyed to chapters, is comprised of historical and sociological sources.

HY

JUSTICE IS THE CRIME: PRETRIAL DELAY IN FELONY CASES by LEWIS R. KATZ, LAWRENCE B. LITWIN AND RICHARD D. BAMBERGER. Cleveland: Press of Case Western Reserve Univ. Page notes; appendices; bibliography; index. Dec. 1972. Pp. xii + 386. \$6.95 cloth. In a critical evaluation of the causes of pre-trial delay in the criminal justice system, the author makes recommendations as to how to assure defendants their constitutional right of a speedy trial. Starting with the common law background, the author describes the incorporation of the pre-trial criminal procedures in the United States and the ultimate evolution of the entire process into today's stagnant morass. Using interviews, documented case studies, and statistical analyses to support his contentions, Mr. Katz lays the ultimate responsibility on a lax judiciary, dilatory prosecutors and defense counsels, and provincial legislators. As a suggested remedy to the crisis, he outlines a time model for felony dispositions which includes bail reorganization, elimination of the necessity for grand jury indictments, liberalized discovery, and a minimized time lag between arrest and trial. Unfortunately, the author devotes too little time to analyzing the probable consequences of his proposed solutions which causes the reader to question both the author's understanding of the underlying problems concerning pre-trial delays as well as the effectiveness of his propositions in practice. The text is adequately documented, but its research value is contained in the appendix which includes court statistics and a state-by-state analysis of the basic procedures applicable to the preliminary stages of criminal prosecutions. The significance of the book is greatly enhanced by its multi-disciplinary approach toward delineating factors which impede the administration of criminal justice. Although it does not adequately resolve these ultimate issues, this delineation is itself important.

GFM

THE GREAT REVERSALS: TALES OF THE SUPREME COURT by MORRIS L. ERNST. New York: Weybright and Talley. Index. 1973. Pp. xii + 212. \$7.95 cloth. In a simple narrative account of some of the more memorable Supreme Court reversals, Mr. Ernst attempts to show not only their historical significance but also to demonstrate how the law can and must change in order to effectively regulate an evolving society. Since the Supreme Court's first reversal in 1810, there have been over one hundred such decisions. Although this figure may shock the proponents of *stare decisis*, Mr. Ernst, while admitting the necessity for some certainty and precision in the law, nevertheless, contends that law cannot remain totally rigid if it is to be relevant in an ever-changing society. It is the author's view that it is the Supreme Court's enlightened response to societal changes and its receptiveness to meaningful innovation that give life and heart to our Constitution. Each chapter deals with a particular period in American history and relates the most noteworthy reversals of that period, giving each case greater meaning by placing it in its historical and societal context. The first several chapters, which deal with the periods prior to 1900, will be of interest primarily to students of constitutional history. It is essentially the latter portions of the book, dealing with such twentieth century concerns as integration, crime, and sex discrimination, that achieve the greatest interest level, especially for the lay person. The author's readable style communicates the significance and excitement of such cases as *Brown v. Board of Education*, *Gideon v. Wainwright*, and *Reed v. Reed*. The chronicling in less than two-hundred pages of famous cases on which volumes have been written and the total absence of case citations indicate that this book will be of little practical use to the practicing attorney. However, the author admits that it was designed for the lay public in order to enlighten them on the mysteries of the law and the subtlety of the legal process. Though this book will be of no more than casual interest to anyone past his or her first semester of law school, it is more than competent to accomplish its explicit purpose.

MG

LEGAL CONTROL OF GOVERNMENT: ADMINISTRATIVE LAW IN BRITAIN AND THE UNITED STATES by BERNARD SCHWARTZ AND H.W.R. WADE. New York: Oxford Univ. Press. Page notes each chapter; table of cases; table of statutes; appendices; index. 1972. Pp. xxxii + 349. £ 3.00 (\$10.25) cloth. This volume briefly surveys, contrasts and critiques the administrative systems in England and the United States and suggests, where appropriate, areas in which each might profitably mimic the other. The authors repeatedly focus upon the important contrasts between the two systems: that the British model features more flexibility than its procedurally-oriented American counterpart, and that the scope of judicial review in each country is directly related to that system's conception of the proper legislative role of its courts. The authors attempt to sensitize the reader to several basic assumptions: that the constitutional traditions of the two countries are quite different; that industry regulation in America is much more lax than in Britain's partially nationalized economy; and that the personnel staffing America's administrative structure are transient, less skilled and on the whole much more amateurish than their British colleagues. Once these assumptions are clearly outlined, the authors set about to examine the various administrative functions, including complaint structure, rulemaking, adjudication, procedural guarantees, administrative discretion and judicial review. While the volume is divided into two main parts covering the administrative systems and the work of the courts, the division is more cosmetic than substantive. The survey is not bifurcated, with each half analyzing a separate organism, but rather, like the systems it seeks to describe, is a unit, covering the

entire administrative complex from informal hearing to judicial review. The authors suggest that, since the end of the Second World War, each country has changed the face of its administrative law. While Britain has rediscovered the strengths of informality, the United States has instituted procedures that vary from the informal to the very strict. At the same time, the American courts have been given a freer hand to legislate, where the agencies whose actions they are charged to review have failed to do so adequately, while British courts have exercised restraint. While the authors view the British trends with favor, they make no final judgment of American administrative law except to hint that, by contrast to British forms, it is distressingly overstructured and inelegantly rigid. The authors illustrate their observations with detailed discussion of pertinent court decisions and legislative enactments. In addition, the volume features two appendices which set out the American Administrative Procedure Act and the Freedom of Information Act. Inclusion of selected British statutory material in these appendices would have been helpful. The work is valuable on several levels—to the law student it provides a short, readable overview of the American administrative process; to the student of comparative political systems, it outlines significant contrasts between American and British administrative law, as well as particular insights into how each society administers its social welfare policies; to the practitioner, it provides a brief, if slightly disjointed, outline of British administrative law.

SBF

ADMINISTRATIVE DISCRETION: PROBLEMS AT DECISION-MAKING BY GOVERNMENTAL AGENCIES edited by CLARK C. HAVIGHURST. Dobbs Ferry, N.Y.: Oceana. Page notes each selection; no index. 1974. Pp. viii + 215. \$8.50 cloth. This collection of six essays, first published in *Law and Contemporary Problems*, follows the path that Professor Kenneth Culp Davis only suggested in his *Discretionary Justice: A Preliminary Inquiry*. The essays provide valuable insights into the practical aspects of administrative decision-making, as well as further theoretical elaboration of the extent to which discretion of both an identifiable and unidentifiable nature, affects the administrative process. Among those areas explored in depth are military justice, presidential spending, the Securities and Exchange Commission and awards of government contracts. From each examination, each author, either explicitly or implicitly, continues Professor Davis's inquiry into the "nuances of discretion"; several apply Davis's thesis—that unsound discretion may be avoided by the development of rules which clarify decisional standards—to the machinations of a particular administrative scheme, while several suggest further development and refinement of the concept of discretionary justice. The slender volume will prove to be of great interest to students of the administrative process, as well as to practitioners engaged in the several areas outlined in greater depth. It may well aid the implementation of those reforms suggested by Professor Davis.

SBF

LIONS IN THE STREET: THE INSIDE STORY OF THE GREAT WALL STREET LAW FIRMS by PAUL HOFFMAN. New York: Saturday Review Press. End notes keyed to chapters; index. 1973. Pp. x + 244. \$7.95 cloth. Cravath, Swain & Moore . . . Lord, Day & Lord . . . Milbank, Tweed, Hadley and McCloy. These names are a sample of what Mr. Hoffman calls the "Brahmins of the Bar—representatives of the Legal Establishment of the East." The attorneys who belong—almost literally—to these firms spend much of their time and energy learning to conform to the firm's "ideals." At Cravath, Swain & Moore, for instance, reputed to be a "sweatshop," it behooves one to be a compulsive worker. The at-

mosphere of the Cravath suite is illustrated by an incident involving one of the senior partners, Hoyt Moore. He supposedly was approached by a partner who suggested to Moore that the associate partners were being worked too hard. Moore rejected the suggestion and reinforced his position by informing the partner that there wasn't a light on in the office when he, Moore, left at two in the morning that same day. In this manner, Mr. Hoffman guides the reader down Wall Street, stopping at the more interesting doors for a closer inspection. The book is written in an outspoken manner which is likely to produce some irritation and discomfort in the subjects of the work and readers who recognize themselves in character. Hoffman, however, seems more interested in educating and entertaining the reader than in sparing the feelings of his subjects. There is enough variety throughout the book to assure almost any reader, lawyer or non-lawyer, an amusing or enlightening reading experience. Much discussion concerns the Achilles heel of the Legal Establishment—its "well-padded pocketbook"—and how those with a vested interest in its well-being connive to keep it healthy and growing. For those who are interested, Hoffman relates a number of episodes involving Richard M. Nixon. Commenting on the practice of law, Nixon once told a visitor to his Los Angeles office, "I never realized how easy it is to make money. I just got twenty-five thousand dollars for telling a bunch of stupid jerks something they could have learned from the newspapers." A reading of *Lions in the Street* by attorneys might be beneficial to the legal profession. Serious reflection upon the book's content and intent, together with an internal examination of one's professional policies, may result in fewer lawyers having to admit to themselves late at night that they are only practicing law for the money.

AC

JUSTICE, PUNISHMENT, TREATMENT: THE CORRECTIONAL PROCESS by LEONARD ORLAND. New York: The Free Press. Unnumbered page notes; tables; figures; forms; index. 1973. Pp. xxvi + 579. \$15.95 cloth. This new collection of cases and materials on the correctional process presents a fresh approach to a subject receiving much public attention and about which a host of new books and articles are currently being published. The author is a professor at the University of Connecticut School of Law, a former parole board member, and a recipient of a Ford Foundation grant to study prisons and parole processes in Europe. His choice of materials reflects a sensitivity to the prison experience itself, as opposed to its legal ramifications, which is noticeably lacking in any of the currently available legal literature on the subject. The order of subjects discussed is sequential, i.e. from the sentencing stage to the collateral consequences of conviction. The reader is offered extremely well-selected samples of sociological articles, cases, existing law (statutes, administrative regulations, and institutional rules), model statutes, professional standards and, unexpectedly, even prisoner writings (including Jackson, Cleavor, Mo and Ed Tromanhauser, an Illinois prisoner). Orland, who spent time with his law students in isolation in a Connecticut prison for the experience, has given added realism to the book by including samples of every type of confidential report that is filed during a prisoner's involvement in the criminal justice system, such as pre-sentencing investigations, a probation violation report, an institutional misconduct violation and a prison psychiatrist report. Several articles give the reader an international perspective which, when juxtaposed to materials relating to the daily life of an American prisoner, combines to form the finest and most complete encyclopedic text on the subject.

JG

TWO CONCEPTS OF THE RULE OF LAW by GOTTFRIED DIETZE. Indianapolis: Liberty Fund. Page notes; index. 1973. Pp. x + 108. \$5.00 cloth. This essay juxtaposes two theoretical concepts which relate to the practical operations of the legal order: the "Law State" and the "State Law" (*Rechtsstaat* and *Staatsrecht*). While the connotations are more naturally apparent in the German language, and better grasped in terms of the English words, "constitutionalism" and "police power," the author makes use of the literal translations for purposes of symmetry and interrelation. An historical survey of the German political experiences since the early nineteenth century is the vehicle chosen to demonstrate the significance of these concepts to the actual effects of constitutional government. Originally a product of *laissez faire* liberalism, the idea of the Law State as a mere formal constitutional polity—governing the best when governing the least—was gradually invaded by competing ideas of nationalism (the Empire), socialism (the Weimar Republic) and national-socialism (the Third Reich). These influences brought with them the necessity of framing and promoting their respective ends through specific provisions of State Law. Theoretical adherence to a constitutional state thus became threatened by, and finally subordinated to, the growing stature of the police power. The author sees the present structure of West Germany as moving in the opposite direction. Organized under the Basic Law, the Federal Republic declares itself to be a "republican, democratic and social Law State" (Art. 28); however, the emphasis on democracy and the impact of behavioral sciences in the arena of criminal law have given rise to an era of permissiveness which threatens the Law State with the beckon of anarchy. Salvation is available in the recognition that the Law State can only survive if supported by the enactment of and respect for State Law—no constitution can be self-executing. To keep the state from reverting back to the evils of totalitarianism is the task of the vigilant. The book is highly theoretical and presupposes some experience with political science or philosophy. The author relies heavily on the writings of several German thinkers of little reputation among American students, but he quotes generously from their works and cites to them frequently in the many footnotes. A more detailed treatment of the relation of the Just State and State Justice to the traditional dichotomy of justice and law (as found in the clash between natural law and legal positivism) could have highlighted the problem within a broader and more useful perspective.

RPS

REAL ESTATE LAW, SIXTH EDITION by ROBERT KRATOVIL. Englewood Cliffs, N.J.: Prentice-Hall. Intext notes; section analysis within chapters with examples; index keyed to sections. 1974. Pp. xii + 479. \$13.00 cloth. Kratovil's encyclopedic approach offers a one volume cursory coverage of practically every area of real estate law. The topics discussed within its thirty-nine chapters are the basic principles covered in any freshman real property course, such as, the sources of real estate law, easements, recording and constructive notice, and landlord-tenant law. Other areas include real estate closings, town houses, industrial parks, condominiums and co-ops, land acquisition and assembly, and the various tax consequences which flow from each. The simple, non-technical format makes it a convenient volume for any person interested in real estate law. The book contains numerous examples, suggestions and "new directions" briefly discussing such recent trends such as implied warranties in apartment leases and in the construction of new houses. Most sections contain references to cases, annotations and law review articles. The sixth edition reflects the current changes in the law through the addition of chapters on several evolving areas of real estate law, including land acquisition and assembly, industrial parks, town houses, homeowners' associations, and land use controls. The

book contains a table of contents and index, but no table of cases, annotations or table of books and articles. Possibly a more extensive use of citations or even footnotes as well as a larger list of references at the end of each chapter would increase its value as a reference tool for the practicing attorney. Its style and comprehensive format clearly reflect that it was written primarily for the real estate broker, loan officer, contractor or housing official rather than the real estate lawyer. An attorney who deals extensively with real estate may find it too general to be of any great value on specific aspects of the law. Phrases such as "in most states" or "in some states" without case reference decrease the book's utility for the practicing Illinois attorney. Another shortcoming of any smorgasbord approach, (that is, a little of everything) in a general area of law is reflected in chapter seventeen, "Dower, Curtesy, Community Property and Homestead." At page 207 the author lists the states in which dower exists. Illinois is properly omitted since dower was abolished January 1, 1972. Nevertheless, on page 212 the author cites Illinois as one state in which divorce terminates the right of dower. In short, the book attempts to cover the entire range of real estate law in 479 pages. It does so as effectively as possible and therefore will be of value to any person concerned with real estate transactions, negotiations or ownership. However, in attempting to reach "every professional engaged in real estate" by presenting such a large area of law within such a small volume, the value of the book to the practicing attorney is limited. Nevertheless, it is one of the few books that has successfully organized the complex field of real estate law into a general yet succinct volume.

MD

SEX CODE OF CALIFORNIA: A COMPENDIUM by SARAH SENEFFELD BESERRA, NANCY M. JEWEL and MELODY WEST MATTHEWS and edited by ELIZABETH R. GATOW. Los Altos, Cal.: Wm. Kaufman. Chapter introductory notes; glossary; bibliography; index. 1973. Pp. x+197. \$3.95 paper. In a single volume, the authors discuss all current California statutes which deal with sexual behavior or sex-related areas of health and medicine. The book is divided into two separate parts: "Health Related Law," and "Legal Restraints on Sexual Behavior." Six topics are covered in the first part, including contraception, abortion and sterilization, while the second part covers twenty-one topics ranging from adultery and bigamy to obscenity, incest and rape. The treatment of each topic is essentially the same: definition, brief historical background, and current status of California law, plus coverage of special areas of interest, for example, treatment of minors. This interpretive material is followed by the text of applicable sections of California statutes. The authors' desire to present the materials objectively is generally achieved. The historical and interpretive sections are provided to give guidance to the layman as well as the lawyer, with extensive footnoting of conclusions which are drawn. Additional assistance is provided by a simple but complete glossary and a truly helpful index which makes for easy location of all information on minor or obscure points of law. The authors make the point that there is a real need for more public information regarding the legal aspects of society's fast-changing sexual mores, and groups in other states might be well advised to compile and disseminate their own "compendium."

MT

ECONOMICS OF POVERTY AND DISCRIMINATION by BRADLEY R. SCHILLER. Englewood Cliffs, N.J.: Prentice-Hall. Chapter references; tables; charts; index. 1973. Pp. xiii+199. \$8.95 cloth. As Professor Schiller has aptly pointed out in his preface, "[p]overty and discrimination are popular subjects." In an attempt to

cover all bases, the author has valiantly tried to explain the phenomena of widespread poverty and discrimination in our affluent society. If he has fallen short, it is probably only because there are too many indefinable concepts with which to deal effectively in a small amount of space. As an economist writing for the layperson from a sociological viewpoint, Schiller has successfully refuted many of the myths commonly perpetuated about poverty and the poor, analyzed briefly—if not with a great deal of insight—the public programs currently used to combat poverty and discrimination, and made some overly cautious recommendations in the areas with the most obvious shortcomings. In ignorance, or perhaps for a lack of space, Schiller has made at least one serious omission: the effects of discrimination against women and, indeed, their major role in the cycle of poverty [see, e.g., J. Kreps, *Sex in the Marketplace* (1971); *Economic Report of the President* 89-112 (1973)]. The low wage theory, or crowding hypothesis, might also have been discussed as a widely accepted theory in the section on the causes of poverty. Despite these failings, the book is highly readable, never dull and gives an adequate overview of the area for the general reader and, as a text, it could be supplemented with additional materials. Professor Schiller has accomplished his purpose—"to lay the foundations for a clearer understanding of poverty and discrimination." Whether we can expect more in two hundred pages is at least questionable.

KLS

LETTERS OF LOUIS D. BRANDEIS, VOLUME III (1913-1915): PROGRESSIVE AND ZIONIST edited by MELVIN I. UROFSKY and DAVID W. LEVY. Albany: The State University of New York Press. Letter notes each letter; key to letter source citations; comprehensive name index. 1973. Pp. xxiv+705. \$20.00 cloth. The culmination of the dual roles which Brandeis played as a leading member of this country's progressive reformers and as public counsel is represented in a very real sense throughout this third published volume of his letters. (Previously published were Volume I: *Urban Reformer*, and Volume II: *People's Attorney*.) With the inauguration of Woodrow Wilson in 1913, reformers found that they now had a champion of their cause sitting in the White House. Brandeis, with his direct access to the highest echelons of the administration, was thrust to the forefront as the country's foremost reform leader. As the writings in this volume indicate, however, Brandeis did not abandon his commitments both as attorney and advisor to many reform groups seeking the end to monopolistic trusts and as public counsel in rate hearings before several public service commissions, particularly the Interstate Commerce Commission—roles which had characterized his earlier days as a reformer. It was during 1913, just two years before his nomination to the Supreme Court, that Brandeis assumed the reigns of the American Zionist Movement and attempted to organize national support for a viable Jewish homeland in Palestine. The progression of letters effectively illustrates that the Zionist movement consumed most of his thoughts and energies during the next three years. Urofsky and Levy chose those letters which they felt best demonstrated the tasks which Brandeis had taken upon himself during this era. The letters are complete with excellent annotations providing both cross-references to related letters and editor's notes as to names and matters referred to within each letter. It should be noted, however, that the editors were denied access to much of Brandeis' personal and legal correspondence and, to this extent, the volume may be considered to be lacking, especially in regard to revealing the complete personality and intellectual outlook of the man. The book, while of immense value to the historical student of the American Zionist Movement and its origins, is of only limited value to the jurist since this era of Brandeis' life was so preoccupied with the Zionist cause.

LAD

PRIVACY AND HUMAN RIGHTS: PAPERS BY EXPERTS ON AN ISSUE OF GROWING IMPORTANCE GIVEN UNDER THE AUSPICES OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS by A.H. ROBERTSON. Manchester, England: Manchester University Press. Page notes each chapter; appendix; subject index. 1973. Pp. 457. \$15.00 cloth. The Third International Colloquy on the European Convention on Human Rights, held under the joint auspices of the Council of Europe and Belgian universities in the fall of 1970, was the forum for the presentation of papers which resulted in this volume. Edited by A.H. Robertson, Head of the Directorate of Human Rights of the Council of Europe, the book suffers from an unevenness that is characteristic of most works which are edited compilations. For example, the scope of the colloquy was limited to "Privacy and Human Rights" in terms of the European Convention on Human Rights, but a significant portion of the book deals with the evaluation of the last fifteen years of the Convention and its implementation. This is not entirely undesirable. Indeed, the evaluation by Robertson and Henri Rolin are most informative, but this does indicate that the work itself was not limited to the area of privacy. The book may be of little benefit to the local practitioner other than for his esoteric edification, but for the American practitioner interested in foreign and comparative law, international law and constitutional law it is interesting and invaluable. Of special interest are the differing concepts of privacy. Jacques Velu in the first chapter makes extensive comparisons of the various European national statutory and case law concepts. He delineates the conflicts within the Convention and notes American approaches to privacy exemplified by case law, statutes and Prosser. Scientific incursions into one's private life, family and communications are discussed in the context of both the physical and technical reality of bugging and, to a lesser extent, the conflict bugging presents with Article Eight of the Convention. Several other problems are frankly discussed by the contributors: the criteria the Commission of Human Rights uses to recommend a case to the Court of Human Rights, the absence of a uniform interpretation of the Convention until the Second Protocol to the Convention permitted the Court to give advisory opinions, and the binding effect the Convention has on individuals as well as states. The consensus of the colloquy as to this particular problem was that the Convention is binding. Perhaps the most fundamental issue raised at the colloquy was discussed by Phedon Vegleris, formerly a professor of law at the University of Athens: the effect of the European Convention on Human Rights on the internal law of the signatory states. The fact that Greece was a signatory and subsequently renounced its obligations under the Convention when several other nations presented evidence of Greek governmental violations of human rights does not make the problem any easier. The effective implementation of the European Convention requires, according to Professor Vegleris, that the signatories adopt the letter of the Convention and adapt to its spirit. Frank Newman of Berkeley offered very pointed criticism in regard to the overinflated accomplishments of the Convention. Ironically, the book may ultimately be of more interest to the American practitioner interested in constitutional law than to the international lawyer.

FPM

PRIVATE PRESSURE ON PUBLIC LAW: THE LEGAL CAREER OF JUSTICE THURGOOD MARSHALL by RANDALL W. BLAND. Port Washington, N.Y.: Kennikat Press. Chapter notes; appendices; bibliography; index. 1973. Pp. xiv + 206. \$9.95 cloth/\$3.95 paper. This work should more aptly be entitled *The Rise and the Apparent Fall of Thurgood Marshall*, because of the differences in his roles as an advocate and as a judge in the pursuit of a social cause. Basically, the author examines the legal career of Marshall, with special emphasis on his twenty-seven

years as the NAACP's leading advocate before the federal courts, his three years as a federal court of appeals judge, and his two-year term as Solicitor General prior to his appointment to the United States Supreme Court as an Associate Justice. Although the author chronologically examines the principal events in Marshall's life, he does not consider this study to be a biography. Indeed, three-quarters of the book is an analysis of the incorporation by the NAACP of the use of sociological aspects into its strategy for the constitutional development of civil rights. As special counsel for the NAACP and, later, as Director-Counsel of the Legal Defense and Educational Fund, Marshall was instrumental in incorporating this sociological emphasis into the NAACP's strategy in confronting racial discrimination in such areas as residential segregation sanctioned by ordinances and higher education as well as when blacks are subject to the criminal process. As opposed to Martin Luther King who, to some degree, represented the "activist" element of the civil rights movement, Marshall represented the "traditionalists" who believed in working within the system and using the judicial process as the principal means for the political and social advancement of the American black. Probably, his greatest success with this strategy took place when he and his colleagues caused to be overthrown the "separate but equal" doctrine in public education, culminating in the landmark decisions in 1954 and 1955 in *Brown v. Board of Education of Topeka*, and related decisions. As a result of his association with the NAACP, Marshall developed the philosophy of favoring full governmental exercise of its discretionary power in the area of economic matters, while curbing its power severely in questions of individual liberty. This philosophy became more definitive with Marshall's record as U.S. Circuit Court of Appeals Judge as well as Solicitor General. Yet, the author indicates that Marshall's apparent "decline" in effectiveness commenced with his transition from attorney to federal judge, first on the court of appeals and later on the Supreme Court. The rationale of the author is that Marshall was more capable of advocating a cause before the bench than he could while serving on it. This book is primarily designed to serve as a primer for any group or individual desiring to accomplish social or political change by working within the ambits of the existing legal system. Marshall's career as counsellor, advocate, and, in a more limited way, as jurist illustrates that both legal and social objectives can be attained without resorting to riots or other acts of violence. This point is emphasized through the author's effective use of primary source material and documentation, including references to a collection of writings and speeches by Marshall.

JH

PSYCHOANALYSIS AND THE LAW by C.G. SCHOENFELD. Springfield, Ill.: C. C. Thomas. End reference notes; index. 1973. Pp. ix + 285. \$13.75 cloth. In a well footnoted initiation to psychoanalytic theory, the author attempts to analyze the judicial system with that theory serving as a guide. The book is divided into two sections. The first section defines some of the basic elements of the Freudian model and utilizes that model in attempting to describe the interaction among the various participants in the legal system. In the second section, the author narrows his field of discussion as he focuses on constitutional law developments with the guidance of the psychoanalytic perspective. The reader is given psychological explanations of such areas as judicial activism and judicial review. The book also discusses significant events such as the attempted court packing plan by President Roosevelt in 1937 with its ensuing violent public reaction. What results is an insightful and unorthodox, although somewhat simplified, explanation of the human subconscious and its impact on the judicial decision making process. The book is recommended to the interested layman as well as the practicing attorney who has little or no background in the area of psychology or psychoanalytic theory. The

text is very readable and enjoyable, but nevertheless, its major weakness is its failure to go beyond a mere introduction to this growing and fascinating area of the law. Its main contribution to the legal literature, therefore, is that of being an introductory text which will awaken the interest of the reader to the importance of the human psyche in the legal decision making process.

AL

SOCIAL DISABILITY: ALCOHOLISM, DRUG ADDICTION, CRIME AND SOCIAL DISADVANTAGE by DAVID MALIKIN. New York: New York Univ. Press. Chapter notes; bibliography at end of each division. 1973. Pp. xv + 266. \$10.25 cloth. For those attorneys who spend much of their professional and non-professional life as "counselors" as well as attorneys, an understanding of the content of *Social Disability* is essential. The book by David Malikin, an associate professor of rehabilitation counseling at New York University, is a subtle dissection of some pervasive misconceptions about rehabilitation: a word that becomes more complex as the book unfolds. To achieve sufficient understanding of the problem and its scope, Mr. Malikin divides the book into four major divisions: alcoholism, drug addiction, crime, and social disadvantage. Each division is further broken down into chapters consisting of a comprehensive statement of the problem by an outstanding specialist in the field, a case history of how one individual became disabled and rehabilitated, and a partial review of research in programmatic literature. Since "the major case of social disability might be found in the wide differences between the values we espouse as a society and the practices we actually pursue," the counselor should be aware of how and why people interact the way they do so that the most effective and personally satisfying aid can be supplied. Awareness of the experiences related in this book are invaluable.

EA

MAN FOR MAN: A MULTIDISCIPLINARY WORKSHOP ON AFFECTING MAN'S SOCIAL AND PSYCHOLOGICAL NATURE THROUGH COMMUNITY ACTION edited by JOHN L. CARLETON and URSULA MAHLENDORF. Springfield, Ill.: C. C. Thomas. Bibliography after each section; index. 1973. Pp. xxiv + 355. \$10.95 cloth. *Man For Man* is a collection of papers presented at the Santa Barbara Social Psychiatry Workshop in 1971 by social psychiatrists and interested laymen. The goal of the workshop and its participants was to further the understanding and exploration of life in a community—a topic highly relevant to those who specifically deal, on a daily basis, with laws that structure and reinforce the character of our communities today. The treatment of man not merely as a singular being, unaffected by his social environment, but as an integral part of the social milieu is an approach in which the concerned lawyer should have at least as much interest as the contributing authors. The authors' foundation for positive community relations may be best set forth by an excerpt from the welcoming address, found at page xvi, describing the milieu of a half-way house for outgoing psychiatric patients which was initiated and continues to be maintained by the Psychiatric Foundation of Santa Barbara:

The basic concept that we wanted the community to establish and to maintain was to base the community on honesty and openness with one another and above all, on love for one another. As individuals and as a group we achieved that The people living at the house supported one another in meeting new challenges and new responsibilities in the outside world and in their community itself. They learned to relate to each other and to other people. The more supportive they were of each other, the more comfortable they became with expressing their feelings and with

overcoming the fear of rejection in doing so They had to handle the problems of working out feelings about each other and about themselves; they did this with each other, which is difficult to do. The feelings of anger and hostility are always hard to deal with. But there were fond feelings that were difficult for them to deal with also. The fear of being close to one another, to be exposed, to expose yourself to other people—these things they had to handle, and they did handle them. The important thing was that they faced the problems and got through them to conclusion.

This book is more than an attorney's guide to the law. It is an exploration of life as well as a proliferation of essential perspectives. From an enlightening discussion of the development of the history of psychiatry in America, the book proceeds to depict the foundations of modern social psychiatry. Building upon a wholistic approach, the chapters break down into discussions of various phenomenon and their relationship to the entire social structure. The role of the church, democratic institutions, the environment, race, violence, prisons and the cities are among the topics discussed, but of foremost importance to the authors is the behavior of the group with regard to their social conditions, which is evident in Dr. Louis Miller's chapter entitled "Identity & Violence: In Pursuit of the Causes of War and Organized Violence," as well as in Dr. Erika Freeman's discussion of international tensions. J.B. Tietz, an attorney, provides interesting insights on a draft law and its effect on community health while Frank Lanterman describes the effects of the recent change in California's mental health laws. For the attorney who considers himself to be not only a provider of personal services but also a person involved in the future of this society, the thoughts and perspectives put forth in *Man for Man* must be considered.

EA

RACING LAW, VOLUME III by JOHN O. HUMPHREYS and WENDELL M. BASYE. Lexington, Ky.: National Association of Racing Commissioners. Page notes each chapter; table of cases; index. 1973. Pp. viii + 242. \$15.00 looseleaf. As the third in a series of racing law volumes this work is designed to assist the research efforts of persons interested in making, interpreting and administering the law related to horse racing activity. *Racing Law I* and *II* were authored by John O. Humphreys in 1963 and 1966 respectively. Mr. Humphreys was preparing *Racing Law III* when he died in 1970. Wendell M. Basye, Professor of Law at the University of Oregon assumed responsibility for completing the volume. *Racing Law III* is composed of twenty chapters, a table of cases and an index. The author discusses the sanctions that state legislatures have placed on horse racing and the type of judicial review available. Professor Basye's work contains a sample racing act and discusses the type of litigation that occurs in the area. This volume also provides the reader with a model of off-track betting legislation. Professor Basye discusses the issuances of permits to hold a race meet and the awarding of racing dates as well as the licensing, exclusion and ejection power of racing commissions or boards with respect to individual participants. The responsibilities of trainers and racing officials are covered, along with other areas such as: public ownership of race tracks, liability for injuries, workmen's compensation, insurance on race horses, purses and stakes, wagering problems, restriction on racing information, federal regulations of interstate gambling and the drugging and testing of race horses. The work is a thoroughly comprehensive study of the legal implications of horse racing and is footnoted, making reference to state statutes and important court decisions. Not only is *Racing Law III* a must for racing law attorneys, but for owners, trainers, jockeys and the skeptical public as well.

REM

A HISTORY OF REGULATORY TAXATION by R. ALTON LEE. Lexington, Ky.: Univ. Press of Kentucky. Page notes each chapter; index to cases; index. 1973. Pp. xii + 228. \$15.25 cloth. Professor Lee surveys the history of the federal government's attempts to regulate, control, or abolish harmful commodities and activities by means of taxation from the latter part of the nineteenth century to the present. The author has wisely chosen the federal regulatory taxing power as the lens through which he examines the industrial growth, legislative initiatives, and constitutional crises of the period—for the federal taxing power served as a flexible constitutional link between the eighteenth century rationale of state sovereignty and the twentieth century concept of an expanded commerce clause. Initially, it was the midwest farmers and urban reformers who sought to have the tax levied on impure food, dangerous substances, and certain commodity market practices. These efforts resulted in taxes which penalized the production of oleomargarine, mixed flour, and filled cheese; abolished the manufacturing of white phosphorus matches; and controlled the sale of drugs. Congress first invoked the taxing power for regulatory purposes in response to the Supreme Court's liberal stance on the constitutionality of such taxation, and in avoidance of southern opposition to the use of the commerce clause for controlling matters considered by those opposing forces to be intrastate. In the first part of the twentieth century, Congress was less successful in correcting child labor conditions, remedying the plight of coal miners, and in creating agricultural programs by means of taxation—although later these reforms were effectuated by use of the commerce clause. Recent uses of taxation to regulate gambling, narcotics, and guns have been largely ineffective, often hampered by self-incrimination problems inherent in the area of required registration. This book is recommended for undergraduate or graduate student background reading in the history of the political and constitutional development of economic regulation by taxation. Also, it would be of particular interest to legislators, public interest groups, and lobbyists, as the author recites the legislative histories of various regulatory taxing schemes, analyzes the effects of such methods of regulation, and indirectly provides the reader with a guide to further research in the area of regulatory taxation.

FAO

PRISONERS IN AMERICA edited by LLOYD E. OHLIN. Englewood Cliffs, N.J.: Prentice-Hall. Bibliography; index. 1973. Pp. 216. \$6.95 cloth/\$2.45 paper. This collection of the background papers presented at one of the 1972 conferences of the American Assembly, an independent educational institution that both promotes the discussion of vital national issues and attempts to provide solutions to them, describes the different aspects of the American correctional system, including juvenile justice, the conditions of jails and prisons, and community rehabilitation programs. For many of the experts, hypocrisy permeates the entire correctional process. It runs through the juvenile justice system where, in the name of helping to solve the emotional, social, and moral problems of minors, the courts deny them due process of law, prosecute them for activities which would not be criminal if committed by adults, and thereby attach to them the permanent social stigma of being labeled a delinquent. Hypocrisy is also a central factor in adult corrections, particularly among reform-minded state governments. Often a state will accept the concept of community corrections with its concomitant use of probation but, instead of allocating the funds necessary for a successful probation program, it often releases a dangerous criminal into the community because there was no investigation of his character. In addition, there will often be no supervision of his conduct once that individual is released. The most disturbing aspect of the system is, of course, the prisons themselves. Violence, homosexuality, and extortion thrive in institutions that fail to provide for even the most fundamental needs of human beings,

and that are often staffed by uneducated and underpaid guards, politically appointed wardens, and by naive psychologists and social workers. All the essayists agree that prisons are nearly a total failure; there is no evidence to show that they effectively deter others from crime; they certainly do not rehabilitate or aid the convict in any manner, and the violence occurring in them suggests that they do not even incapacitate the criminal. However, prisons do effectively exact punishment. One alternative the researchers offer and discuss is decriminalization, that is, the removal of certain types of anti-social behavior from the jurisdiction of the criminal justice system. This includes crimes related to the use of alcohol, marijuana and other drugs, prostitution, homosexuality, and, in general, activities which do not directly injure other people or other people's property. Another alternative to the current system is de-institutionalization. Rather than being automatically placed in prisons and jails, both arraigned and convicted persons would be supervised within their community, through the extensive use of release on recognizance, probation, parole, furloughs, and work-releases, or through halfway-houses and other residential community programs. The last two essays, however, caution reformers to beware of the pitfalls of these alternatives by describing the poor results that some states have had subsequent to the institution of these reforms. This book is excellently written, and although the essays are not footnoted, a six-page list of sources and references and an index is provided at the end of the book. The work is not, though, a comprehensive study of prison reform; the somewhat repetitive advocacy of community corrections leaves out questions of community response to those programs and fails to resolve the problems of returning an offender to the community when it is often the case that the conditions of the neighborhood itself were partially responsible for his criminal behavior. Even though the solutions that are advocated are sometimes controversial and occasionally impracticable, they are humane and intelligent and along with the historical analysis of American corrections, including its current condition, provide the reader with an excellent sketch of what does and should occur after, and sometimes before, the jury says, "Guilty."

MMS

INSANITY DEFENSE by RICHARD ARENS. New York: Philosophical Library. Page notes; appendices. 1974. Pp. xxvi+328. \$12.50 cloth. In the wake of expanding notions of rehabilitation as a substitute for punishment in the criminal justice system and a broader societal understanding of psychiatric ideology and treatment, the more traditional retributive methods of dealing with criminal offenders suffering from some form of mental defect came under critical scrutiny. In response to this attitudinal change, Judge Bazelon declared a new test of insanity twenty years ago which excludes from criminal responsibility those unlawful activities which are the product of a mental disease or defect. *Durham v. United States*, 214 F. 2d 862 (D.C. Cir. 1954). This test provided for potential innovations in the insanity defense by expanding the scope of permissible psychiatric testimony as well as the scope of deviational acts constituting "the product of mental illness." Arens' experiences in the District of Columbia courts in arguing the insanity defense becomes the author's vehicle for examining attitudes toward prevailing concepts of criminal responsibility held by the psychiatric and judicial establishments. *Insanity Defense* is the study of the underlying forces which led to the failure of the *Durham* innovation to fulfill its theoretical promise. The author, now a Visiting Professor of Law at Temple University, was director of a project, funded by the National Institutes of Health, testing Judge Bazelon's hypothesis that nonpsychotic disorders can constitute a mental disease or defect falling within the rule of criminal non-responsibility. The major source of data was to come from the trial of selected criminal cases by members of the project staff under the direction of Professor Arens. This book depicts Arens' personal courtroom struggle to make

the *Durham* rule adaptable to prevailing conditions of psychological therapy. Arens' consequent failure to effectuate any expansion of the *Durham* doctrine and, thus, any reform in the insanity defense is due, according to the author, to the archaic retributive attitudes possessed by institutional psychiatrists, government prosecutors, and the judiciary, among whom the outmoded values of the earlier *M'Naghten* insanity test still prevail. Nevertheless, the case analyses reported in the book provide evidence of the complex set of forces—institutional, professional, and organizational—which ultimately blocked the *Durham* reform. Indeed, the work is illustrative of the difficulties of effectuating any long-term societal reform by the singular means of sterile legal doctrine without concurrent institutional and technological readiness. The truth of this reality accounts for the weakness of the author's thesis in his earlier one-dimensional study of the judiciary in *Make Mad the Guilty* which was published in 1969. There, Arens presupposed the ability of *Durham*'s symbolic gesture, through the formulation of a new test, to provide impetus for change as well as real compassion for the ordeal of the mentally disordered offender. Essentially revising that work the author, in this most recent work, realizes that change is a multifarious process. Without the concurrent institutional readiness through improved psychiatric facilities and individual enlightenment, the formulation in *Durham* proved to be no more than empty rhetoric. In the last analysis, *Durham*, like so many innovations, proved to be a revolutionary notion that was ahead of its time.

PP

POLITICS AND CRIME edited by SAWYER F. SYLVESTER, JR. AND EDWARD SAGARIN. New York: Praeger. End notes and references; tables. 1974. Pp. x+160. \$10.00 cloth. American crime, delinquency, deviant behavior, and corrections are the subjects of this selection of papers delivered by fifteen legal scholars at the Second Intra-American Congress of Criminology in Caracas, Venezuela. In a perceptive look at contemporary issues presented by criminal law classifications, enforcement, and judicial interpretation, the editors contend that offenses involving victimless crimes should be decriminalized and controlled, if at all, in other ways. The reader develops a perspective on the political issue of "law and order;" how it arose and what consequences it may bring to bear. Government corruption is looked at through the eyes of Marx's "dialectic model of society." Police crime statistics are debunked and shown to be a poor measure of the true incidence of crime and one is also shown why the "Federal War on Crime" is failing. The process of criminalization is described by one author as a political struggle in which competing interest groups seek to implement their values as public policy. One gets a view of the role of adolescent peer groups in the socialization process and how they lead to a criminal subculture. It is suggested that cultural differences often account for criminalizing certain conduct which is acceptable in minority subcultures. Whether minority radicals can get a fair trial in this country is examined and, judging from the Bobby Seale and Angela Davis trials, it is likely that public pressure makes itself felt in favor of the defense. A close look is taken at politically motivated crime and the reasons why such a "Grand Nuremberg Defense" cannot be allowed impunity here. Finally, the trend toward and theory of decriminalization is analyzed. One sees how sociological and scientific perspectives as well as empirical research are valuable aids in the assessment of legal policies; however, it is also shown that the defining of acts as crimes is essentially based on value judgements which must be subject to rational assessments and political debate. The articles presented are forceful and relevant to today's problems. The research information, data, ideas, and proposals put forth can be very valuable to professionals in the field of law, students, government officials, and others engaged in the effort to understand the phenomenon of crime in modern society.

BDS

A LAWYER TELLS YOU HOW TO WIPE OUT YOUR DEBTS AND MAKE A FRESH START by JEROME I. MEYERS. New York: Chancellor Press. Limited page notes; table of exhibits; appendices; glossary; index. 1973. Pp. 254. \$8.95 cloth/\$3.95 paper. Disclaiming any intent to solicit legal business, the author-lawyer has written a readable piece designed to enlighten the general lay public regarding the constitutional "right" to have a "fresh start" by eliminating an unmanageable debt burden through personal bankruptcy. The book admirably highlights the widespread debt burden modern consumers are suffering under, and a substantial portion of the book is devoted to vignettes illustrating how useful a bankruptcy "bath" can be to that large segment of the population who devote more than twenty percent of their current income to past-debt obligations. Based on a series of interviews with persons who have experienced bankruptcy, Mr. Meyers tries to dispel the traditional stigma attached to bankruptcy. Although technically superficial, the book, nevertheless, includes discussion of such a diverse range of topics as the advantages of married persons going bankrupt, maximizing property exemptions, non-dischargeable debts, handling bankruptcy in court (without benefit of counsel), fraudulent conveyances, determining when a lawyer is needed and an incredible four-step formula for "winning at the game" of bankruptcy. In a modern-day strain of Horace Greeley, the author suggests that the most likely "winner" is the person who has "courage" and is "mobile"—to the extent of being able to move to the ultimate promised land, far away from all creditors, in California! The book also includes a summary of assorted provisions of state and federal law, and a collection of basic forms to be used in a bankruptcy proceeding. Legal advice books serve a legitimate need, and to the extent that they do not openly solicit business for the author, correctly inform the readers of their legal rights, and clearly forewarn readers of the limitations inherent in mini-capsules of complicated legal matters; the reader market has a right to have access to "law for the layman," unhindered by supercilious objections of unauthorized or unethical practice of the law. Bankruptcy is potentially very complicated, and the reader of Mr. Meyers' book is unlikely to appreciate the implications of such matters as fraudulent conveyances—whereby the debtor can even unknowingly create a non-dischargeable debt. Readers of legal advice books are very often deprived of alternative solutions and this is especially true of Mr. Meyers' book in that a whole chapter is devoted to criticisms—due to their "inconsistency" with the fresh-start theory of bankruptcy law—of wage earner plans, through which the debtor can arrange an orderly, court supervised repayment plan. In fact, another legal advice book, M. Kaplan, *Out of Debt—Through Chapter Thirteen*, extols the virtues of the wage earner's plan. One of the most specious aspects of Mr. Meyers' analysis is his insistence that bankruptcy petitions can be easily filed and presented to the courts by the layman-debtor. Apart from possible misunderstanding of the law, it is not reasonable to expect the typical debtor, who is already struggling with a guilty conscience, to courageously march into the solemn—and often frightening—courtroom setting and plead for a "clean slate." Contrast this with the layman who can comfortably draft a "Dacey Estate Plan" in private, "leaving" the solemn courtroom to his or her beneficiaries. Mr. Meyers' book is implicitly a social commentary. He faults the modern credit system which encourages the debtor to exceed his or her means to achieve the immediate good life, and which, in turn, comes down heavily on the hapless, over-extended debtor. The author suggests that creditors should bear the burden of cavalier credit policies through increased personal bankruptcies. Unfortunately, the cost is most likely to be shifted to the "paying" debtor through increased carrying charges. The credit system is rightly criticized, but the solution can only aggravate the ill. In any case, lawyers should read the current legal advice books—if only to be prepared for the reader-layman who often ends up in the lawyer's office anyway.

OLD AGE IN A CHANGING SOCIETY by ZENA S. BLAU. New York: New Directions. End notes keyed to chapters; tables; index. 1973. Pp. xvi+285. \$2.95 paper. In a study of the problems of the elderly in the American society, Ms. Blau focuses upon the effects of retirement or of the death of a spouse and argues that today's "Senior Citizens" lack a "role" in society once their marriage and/or career roles have terminated. Often, in old age, people are consigned to a "has been" status. It is Ms. Blau's contention that we must help the elderly "to be." This book effectively depicts the elderly as a minority group barred from equal participation in contemporary society and asserts that it is up to the courts and legislatures to recognize the problem and protect the rights of the elderly. Once deprived of a role to fulfill in life, all but a few "innovators" begin to believe that they are "old," "useless," or "ready to die." The need, the author concludes, is to "recycle" this element of society and help them to attain a self-integrity through an "altruistic humanity" based upon a feeling of community and collective purpose. In this way, old age, like adolescence, would be a transitional period that merely evolves into a new role. Done from a sociological point of view, the book is heavily annotated with empirical data and charts. An index as well as references to other sources are also provided.

CM

THE EDGE OF ADAPTATION: MAN AND THE EMERGING SOCIETY edited by RICHARD KOSTELANETZ. Englewood Cliffs, N. J.: Prentice-Hall. Bibliography. 1973. Pp. xii+180. \$6.95 cloth/\$2.45 paper. *The Edge of Adaptation* is a collection of articles focusing on that perpetually encroaching era, the future. Editor Richard Kostelanetz, employing the premise that attitudinal change must precede social change, views the future from four perspectives: technology, environment, behavior and strategy. The impact of technology is examined by such popular thinkers as Buckminster Fuller and Paul Ryan. The latter, a protege of McLuhan, expounds on the endless possibilities of cable television. Of those who analyze increased environmental consciousness, Ralph Nader concludes that an inferior environment cannot be tolerated in a world of such advanced ability as ours. The sociologists emphasize that once-deviant sexual mores must be understood and accepted in order to cope with the impending era. Political strategists Murray Bookchin and Herman Kahn each explain the necessity of molding recognizable, secure, sociocultural patterns into the uncertainty of the future. The book is a dull reiteration of a now tired theme, over-played even before Alvin Toffler's *Future Shock*. Second line intellectuals already published in *Saturday Review* and *McCall's* do not justify this repetitive printing. The editor's most blatant and inexcusable failing is that he merely catalogues a dozen articles which have appeared over the last six years, and calls it a new work. Attorneys, as members of the future society, need both the tools necessary to exploit and the informational weapons required to combat elements of that era. This amalgam of articles offers neither; it is designed for those who wish no more than a cursory journalistic introduction into the vast science of adaptation. Those sincerely interested in the methods and manners of coping with the impending years are forced to look elsewhere.

MV

SUPREME COURT AND CONFESSIONS OF GUILT by OTIS H. STEPHENS, JR. Knoxville, Tenn.: Univ. of Tennessee Press. Page notes each chapter; selected bibliography; table of cases; index. 1973. Pp. xiv+236. \$9.50 cloth. In tracing the historical development of constitutional standards governing criminal confessions, Stephens narrates the evolution of confession principles from the English common law origins to the Supreme Court's principal decision in this area—*Miranda v. Arizona*. The author's treatise reveals the strong public and Congressional concern with the Court's emerging liberalization of individual rights in this area, and the interaction of the individual Justices' philosophies upon the reformation of constitutional policy. The doctrines of "fair trial," trustworthiness, voluntariness, and coerciveness are also explored. To evaluate the impact of *Miranda*, the author examines its application at its most fundamental level of operation, the police interrogation. Toward this end, fifty police officers from Knoxville, Tennessee and Macon, Georgia were surveyed. From this brief, isolated sampling, the author attempts to generalize on the extent of the institutionalization of *Miranda* requirements, the officers' understanding of *Miranda* policy, and their views of the interrogation process after *Miranda*. Results indicate that, "even though police departments have formally implemented the *Miranda* requirements on a widespread basis, the procedure has had little discernible effect on private questioning . . ." The fact that most criminal cases are decided on guilty pleas further limits the grass roots impact of the ideals of *Miranda*. The author realizes that the survey falls short of a systematic assessment of *Miranda*'s impact on the law enforcement process. Although the goal of evaluating officer's perception of Supreme Court policy objectives is valuable, the form of the interviews and their scope limits the validity of any generalizations. In this regard, the reader might find of more value the work of Professor Neal A. Milner on the impact of *Miranda* especially "Some Common Themes in Police Response to Legal Change," in *Police in Urban Society* edited by Harlan Hahn (Sage, 1971). The Stephens book primarily serves as a historical guide for the student in examining the Court's developments in this area.

KGM

THE AMENDMENT THAT REFUSED TO DIE by HOWARD N. MEYER. Philadelphia: Chilton Book Co. 1973. Pp. xii + 252. \$7.95 cloth. In his "biography" of the fourteenth amendment to the Constitution, Meyer presents the history of that provision from its obscure conception in 1789 by James Madison, to its adoption in 1868, through its past and present interpretation. In addition to the amendment's history, this book touches upon many of the personalities, ideologies and events that were crucial to the development of the "Big Fourteen," as the author terms it. Meyer's main emphasis, however, is on the evolution of the fourteenth amendment's creation and protection of equal rights for blacks. Although an interesting interpretation of the fourteenth amendment's history, Meyer's work is designed for the layman rather than for the lawyer or legal scholar. Though the book contains excerpts from the constitutional amendments and suggestions for further reading, it lacks footnotes, citations to cases, an index and a detailed bibliography. That Meyer's book is intended primarily for a general audience is also evidenced by his somewhat simplistic approach to American history. For example, while it may satisfy the layman to think that the Civil War was merely a revolt against slavery and that the fourteenth amendment was the result of the war's racial aspects, the lawyer should not ignore the economic and geopolitical tensions that contributed to the proper setting for the war. Applications of the fourteenth amendment have extended the concepts of equal protection and due process beyond the field of racial equality such that limiting its historical analysis to racial origins fails to explain the richness of the amendment. Despite its narrow focus, Meyer's book still imparts a basic understanding of the fourteenth amendment to the reader.

ST

FOREIGN AFFAIRS AND THE CONSTITUTION by LOUIS HENKIN. Mineola, N.Y.: Foundation Press. End notes keyed to chapter, page and numerals; unnumbered page notes; table to cases cited; subject index. Dec. 1972. Pp. xii + 553. \$11.50 cloth. In this volume, Professor Henkin analyzes the literal and practical applications of the United States Constitution to foreign affairs. The text is separated into sections covering the effect of the constitution on and actual uses of power by the President, the Congress, the courts, and the States. In addition, a generous portion of the work examines the creation and effects of international treaties and agreements. In the preface, the author states that the text is comprehensible to those not trained in the law, while also considering it a legal study. In fulfilling both of these aims the study is, in effect, divided into two parts: two hundred and eighty-one pages of text and two hundred and fifty-four pages of footnote and case listing. The text adequately fulfills the need of the general reader, while the footnotes and case listing provide the serious student and constitutional lawyer with substantial legislative, judicial, and scholarly authority. In form, the text contains unnumbered footnotes in order to elaborate and cite items critical to the immediate understanding of the textual matter, while the notes following the text cover broader authority along with detailed, illustrative and complementary explanations. Also, a topical index at the rear of the book provides the researcher with a guide to enable him to locate key subject matters without having to hunt through the text. This work combines a summary of past and present developments and opinions, with a voluminous bibliography which the reader can refer to in order to further develop and expand his study of the subject matter. It should be of particular value to constitutional and international lawyers, political scientists, and students of political science, international relations, and law.

LA

THE FALLACY OF IQ edited by CARL SENNA. New York: The Third Press (Joseph Okpaku Publishing Co.). Tables; selected bibliography; index. 1973. Pp. xvi + 184. \$7.95 cloth. This collection of seven short essays purports to examine the scientific controversy surrounding the heritability of I.Q. and the implications of this heritability for the inference of a relationship between I.Q. and race. The book is an express response to the recent debate occasioned by the publication of A.R. Jensen's widely-discussed article, *How Much Can We Boost I.Q. and Scholastic Achievement?* 39 Harv. Educ. Rev. (1969). However, *The Fallacy of I.Q.* fails to present even a facsimile of objectivity; much time is spent discussing white racism, while virtually no time is spent actually discussing race. A single short sentence in the book on page twenty-six points out that the definition of race employed in the Jensen-Herrnstein-Shockley argument is a cultural definition rather than a genetic definition for example, those who consider themselves black and who are considered by others to be black, are as a consequence defined as black. In the last analyses, this remains an exclusively cultural classification and does little to classify race genetically. It is obvious that a discussion of the racial heritability of a character should define racial categories biologically rather than culturally. A few of the essays are particularly interesting. "Can Slum Children Learn?" by Steven Strickland is a succinct report of a Milwaukee project in which the I.Q.'s of disadvantaged children were raised dramatically by constant attention and stimulation. This research, however, implies nothing about the heritability of I.Q., but only about the promise that one's I.Q. can be improved. The article by Jane R. Mercer and Wayne Curtis Brown presents specific information on the culturally biased nature of I.Q. tests and the empirically validated importance of environmental variables. Richard Lewontin raises the important point that comparisons of the heritability of a character within a population cannot be used to infer the heritability of the dif-

ference in this character between populations. It is admitted throughout this book that inheritance plays *some* role in the acquisition of I.Q. Further, the essays explain the importance of culture in the reflection of I.Q. scores. No one can seriously doubt the validity of either of these propositions. The argument lies in the weight which is to be given to each and the implications for social policy. Most of the essayists do little more here than to emphasize the determinant role of environment in I.Q. test scores. As for social policy, there is a vague call for an end to racial oppression. The particulars of such a policy or social change, however, are never really delineated for the reader. Combined with the fact that this book does not really add to the controversy already raging over I.Q. test scores and other genetic debates, it is also poorly documented and thus will not direct the reader to material which may be of value.

CGC

BALLOTS FOR CHANGE: NEW SUFFRAGE AND AMENDING ARTICLES FOR ILLINOIS by ALAN S. GRATCH and VIRGINIA H. UBIK. Springfield, Ill.: Univ. of Illinois Press. Page notes each chapter; tables; appendices; subject index. 1973. Pp. xxii + 117. \$3.45 paper. This work—the fifth in the series, *Studies in Illinois Constitution Making*—describes the hearings and deliberations of the Committee on Suffrage and Constitutional Amending in the 1970 Illinois Constitutional Convention, of which both authors were staff members. The authors show how the various members from diverse economic, geographic and political backgrounds successfully interacted to bring about necessary reforms in the suffrage and amending sections of the state constitution. All committee delegates agreed on the need for a more liberal amending article because the burdensome article to the 1870 constitution had caused many deserving amendments to fail. They desired an article which would strike a balance between responsiveness to needed changes to insure popular control, and stability to discourage the use of the constitution as a legislative tool. The amending article as then proposed and presently enacted (Ill. Const. art. xiv, §§ 1-4 (1970)) provides for amendment initiation by constitutional convention, General Assembly, or by popular initiative in the case of amendments to the Legislative Article. (Ill. Const. art. iv (1970)). Also contained within the article is the procedure for the General Assembly to follow in acting on proposed amendments to the United States Constitution. In revising the Suffrage Article, the committee attempted to revitalize it so as to increase rather than limit voter participation, facilitate and encourage voter registration, and improve election administration by providing the General Assembly with general guidelines and duties. This article (Ill. Const. art. iii, §§ 1-6 (1970)) provides for voting qualifications, elections, and election laws. It also mandated the creation of the Illinois State Board of Elections for general supervision over statewide elections and the voter registration for these elections. While rather cursory in their treatment of the legal issues which arise, the authors do provide a highly personal insight into the motivations and decision making processes of the delegates thus furnishing a valuable source of the history and purposes behind these constitutional articles.

RHE

AN ANTITRUST PRIMER: A GUIDE TO ANTITRUST AND TRADE REGULATION LAWS FOR BUSINESSMEN, 2d edition by EARL W. KINTNER. New York: Macmillan. Selected bibliography; appendices; index. 1973. Pp. xxii + 325. \$12.95 cloth. *An Antitrust Primer* is intended primarily for businessmen who must comply with antitrust and trade regulation laws, but who are unaware of what the laws actually permit or prohibit. Thus, Earl Kintner has written a hornbook which

explains in clear, concise, layman's language the basic principles in this area of the law and alerts businessmen to the dangers inherent in certain business practices. In order to familiarize the reader with this body of the law, the author discusses a broad range of topics including monopolization, conspiracies in restraint of trade, price fixing, mergers and acquisitions, unfair competition, boycotts and refusals to deal, limitation on resale, and patent practices in light of antitrust law. Mr. Kintner, in an appendix, provides summaries and texts of the principal antitrust statutes, that is, the Sherman Act, the Federal Trade Commission Act, the Clayton Act, and the Robinson-Patman Amendment. Within the textual discussion of the book, the reader is given an explanation of the role and function of these laws, and a summary of their provisions as well as an interpretation of those provisions by citation to the applicable case law and the use of illustrative examples. The reader, by this method, becomes aware of the problems encountered in this area and the effect of these laws upon everyday business. Mr. Kintner also discusses deceptive advertising and, in a well prepared appendix, he reviews those Federal Trade Commission guides on advertising, which deal with the situations that businessmen are most likely to confront or find troublesome. While *An Antitrust Primer* is designed to inform, it is clearly not intended to be a "comprehensive treatise of every phase of the antitrust and trade regulation laws." The author's purpose in writing a book of this type was to provide businessmen with guidelines within which they can operate their businesses without fear of violating the law. Nevertheless, when an attorney, perhaps a general practitioner, finds himself counseling businessmen, he might find the primer useful in determining which business practices are clearly safe, which are clearly dangerous, and which should be given special attention or referred to a specialist. Such lawyers and businessmen will find the eighteen-page bibliography, which refers them to additional books, articles, and leading cases, outstanding as an aid for further research. At the very least, this book will provide the reader with some insight into the type and range of constraints imposed upon business practices by the federal and state governments.

JCS

TAX IMPACTS ON PHILANTHROPY: A SYMPOSIUM by THE TAX INSTITUTE OF AMERICA. Princeton, N.J.: Tax Institute of America. Page notes. Dec. 1972. Pp. xxxv+407. \$16.75 cloth. In 1971, the Tax Institute of America held a symposium which explored the charitable contributions provisions of the Tax Reform Act of 1969 and investigated ways in which tax policy might be used to implement social policy. The book which results from that symposium is divided into five parts. Part one focuses on the role and the extent of private philanthropy in American society, the justifications for encouraging private philanthropy, and the nature of the activities supported. Part two discusses the impact of the 1969 Act on philanthropy as viewed by Treasury spokesmen and surveys such significant unresolved regulatory issues as the difficulty in determining an organization's status as either a public charity or a private foundation, the prohibitions on political activities of private foundations, and the effects of the Act on 1970 charitable contributions based on preliminary data from 1970 tax returns. Part three also examines the implications of the 1969 Act upon contributions. Provisions regarding donors are analyzed in terms of their effect upon the donor's selection of property and the donor's choice of recipient. Part four scrutinizes the impact of the Act on private foundations. Many participants questioned the uncertainty of the application of the new provisions, feeling that the programs and activities of private foundations may be inhibited by increased operational costs. The current system of governmental support for private philanthropy as well as proposed alternatives are investigated in part five. The most significant aspect of the book is its examination of

the extent to which non-governmental activities can be encouraged or repressed through tax policy. While the topic is both timely and suitable to symposiac treatment, the forum suffers from a common failing in symposia, namely, repetition from participant to participant. This is not a "how to" manual that systematically discusses all of the charitable contribution provisions of the Code. Neither is it a sociology text since many of the speakers are foundation heads who discuss the operational difficulties the new regulations have generated. Some of the symposium authorities investigate the ramifications of the 1969 Act upon potential donors but the text's usefulness as a reference tool is diminished since many of the discussions are undocumented. However, the discussions in part five on the support of private philanthropy are replete with citations and charts and are valuable to anyone who wishes to pursue this area.

GMW

TO JUDGE WITH JUSTICE: HISTORY AND POLITICS OF ILLINOIS JUDICIAL REFORM by RUBIN G. COHN. Urbana: Univ. of Illinois Press. Index. 1973. Pp. xvi + 164. \$3.45 paper. Professor Cohn's book is the fourth volume in a series entitled *Studies in Illinois Constitution Making*, which is being prepared by the Institute of Government and Public Affairs at the University of Illinois under the direction of Joseph P. Pisciotte. The avowed purpose of the series is to provide insights into the Illinois Constitution of 1970 through both the historical development of constitution-making in the state and the specific forces at work at the Constitutional Convention of 1970. This volume is concerned with the development of judicial reform in Illinois, particularly as expressed in the Judicial Amendment of 1962 and in the new constitution adopted nine years later. Rubin G. Cohn, professor of law at the University of Illinois, was staff counsel to the Committee on the Judiciary at the Constitutional Convention. Beginning with the development of the judiciary in the earlier state constitutions, through the extended struggles for the adoption of the Judicial Amendment and culminating in the dramatic interplay between the proponents of "elective" and "merit" selection at the 1970 convention, Professor Cohn provides a concise, chronological discussion of this topic which is of interest to all legal practitioners. Included are discussions of the Illinois Supreme Court scandal of 1969, biographies of the Convention's Committee on the Judiciary focusing on their political and social attitudes toward the judiciary and, most importantly, excellent summaries of the relevant committee and convention hearings, debates and "behind-the-scenes" machinations. The latter portion of the book presents the curious with an opportunity to discover why the Illinois state court system is constituted the way it is. For those who are relatively unsophisticated about Illinois politics or who have only an intuitive feeling for the political influences on the judicial system, this book will provide insights into or confirm pre-formed attitudes about the system. While the subject matter could have been easily dramatized through a muckraking style, Professor Cohn has chosen to present the topic as objectively as possible. The author does reveal a prejudice in favor of judicial reform and the merit selection for judges, but he is scrupulous about providing reasonable characterizations of the individuals and arguments opposing these views. For those interested in the cause of judicial reform, either for or against, this book can be an unofficial "legislative history" of the current constitutional formulation as presented by an individual who functioned within the maelstrom that was the Illinois Constitutional Convention of 1970 but who was, nevertheless, in a position and of the frame of mind to be objective.

DJB

TWENTY-FIVE YEARS OF ANTITRUST by MILTON HANDLER. Two volumes. Bibliography of author's writing; table of cases; index. 1973. Pp. xx + 1436. \$55.00 cloth (boxed). Milton Handler has, in this two-volume work, brought together twenty consecutive annual lectures delivered by him before the Association of the Bar of the City of New York, as well as several articles on false and misleading advertising, consumer protection, trademarks and trade names. Originally intended as a pragmatic guide for the practicing attorney in the rapidly expanding field of antitrust and trade regulation, the lectures explore the concepts and goals of the antitrust statutes as well as their enforcement and administration. It further considers the unresolved problems, and the recent case developments in this sector of the law. However, in an attempt to provide his audience with more than a "practice manual" knowledge of antitrust, and, perhaps, to defend his firm belief in the need for antitrust laws to preserve economic competition, the author presents an analysis of the philosophy, politics, and economics underlying the law which is sharply critical of decisions made by both the courts and administrators. Although the passage of time appears to have diminished the utility of this text as a practice manual, the author's critical analysis and extensive documentation serve to provide the reader with a comprehensive history of the development of antitrust law. Unfortunately, because it emphasizes current antitrust law in its historical perspective, the text leaves the reader without the necessary guidance for drawing inferences as to the impact of recent decisions on the future development of antitrust law.

JB

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